IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 17678 of 2004

Between:

Fishermen Cooperative Society Ltd., Pallerla (V) Atmakur (M) Nalgonda District rep by Secretary Upperaboina Venkataiah s/o Yadaiah Fisherman Pallerla (V) Atmakur-M of Nalgonda District

..... PETITIONER

AND

1 The Divisional Panchayat Officer, Bhongir, Nalgonda District
2 The District Panchayat Officer, Nalgonda
3 The Panchayat Secretary, Pallerla (V) Atmakur-M (M) of Nalgonda District
4 The Sarpanch, Pallerla Gram Panchayat, Pallerla (V), Atmakur-M(M) of Nalgonda District
5 The Extension officer, Grade-I, Panchayat Raj & Rural Development Mandal Parishad Atmakur, Nalgonda District
6 The Deputy Director of Fisheries Nalgonda District Nalgonda

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more in the nature of Writ of Mandamus declaring the orders of the respondent No. 1 issued in his letter No. 90/2004-A/Pts dated -9-2004 fixing the lease amount at Rs. 13,200/- for the Gram Panchayat tanks and declare the same as illegal, arbitrary unjust and unconstitutional and violative of provisions of A.P Gram Panchayat 1994 and also various executive instructions issued from time to time; while issuing a consequential direction to the respondents to fix the upset price taking the average of the preceding years by enhancing it 10%.

Counsel for the Petitioner: MR.D.GOVARDHANACHARY

Counsel for the Respondents 1 to 3, 5 and 6: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for respndent NO.4 : Mr. G. Jyoti Eswar

The Court at the stage of admission made the following ORDER : Petitioner, which is a Fishermen Cooperative Society Limited, Pallerla, is having 42 members and water resources i.e. Pedda Cheruvu of departmental tank, and Goudi Kunta, Dharmaiah Kunta and Chanddayana Kunta belonging to Gram Panchayat. The petitioner-Society is getting lease from the Fisheries Department in respect of Peda Cheruvu. In respect of other three tanks, for the sale of leasehold rights for catching the fish, the Gram Panchayat is empowered to fix the upset price through the first respondent and offer it to the Society as the latter got a preferential permission under the A.P. Gram Panchayat Act, 1994. For the previous year, the upset price was fixed at Rs.12,000/- and on the representation submitted by the petitioner-Society, the same was reduced to Rs.600/-. For the year 2004-2005, as the upset price was fixed at Rs.15,000/-, the petitioner-Society submitted a representation to the sixth respondent herein, who addressed a letter dated 26.08.2004 to the first respondent requesting it to enhance the lease amount only by 10%, basing on which the first respondent fixed the lease amount at Rs.13,200/-, which is abnormally high. Aggrieved by the same, the petitioner-Society filed the present writ petition.

Learned counsel for the petitioner-Society submits that for the preceding three years, the lease amount was fixed at Rs.1050/-, Rs.500/- and Rs.600/- respectively and in view of the same, the upset price for the year 2004-05 should only be 10% above the actual amount permitted to be deposited by the petitioner-society.

Having heard the learned counsel on either side and having perused the material available on record, it is evident that as per the Circular No.9410/GPF/G1/97, dated 05.02.1999 issued by the Commissioner of Panchayat Raj & Rural Development, Hyderabad, for fixation of the upset price for the sale of fishery rentals, the Executive authority shall consult the Inspector of Fisheries concerned, who will fix the upset price adopting a

principle of leaving of margin of 30% of expected earnings out of sale of fish, the 70% of estimated amount of earnings shall be fixed as upset price. The Executive authority shall forward the proposals for fixation of upset price basing on the recommendation of Inspector of Fisheries for the approval of the District Panchayat Officer, who, within 7 days of receipt of such proposal, shall return it to the Executive authority with his approval. Incase, he intends to make any revision, he should submit his remarks to the Collector and with his approval indicate the revised upset price to the Gram Panchayat. In view of the same, the petitioner-Society can approach the District Panchayat Officer for revising the upset price, if any, and on such making revision, the District Panchayat Officer shall submit his remarks to the Collector and only with his approval, he can fix the upset price.

The writ petition is accordingly disposed of with the above said observations.

01.10.2004

Note:

Issue C.C. in two days.

(BO)

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To

1 The Divisional Panchayat Officer, Bhongir, Nalgonda District
2 The District Panchayat Officer, Nalgonda
3 The Panchayat Secretary, Pallerla (V) Atmakur-M (M) of Nalgonda District
4 The Sarpanch Pallerla Gram Panchayat, Pallerla (V), Atmakur-M(M) of Nalgonda District

5 The Extension officer Grade-I Panchayat Raj & Rural Development

Mandal Parishad Atmakur,
Nalgonda District

6 The Deputy Director of Fisheries Nalgonda District Nalgonda

7 Two CCs to Govt. Pleader for Panchayat Raj & Rural Development,

High Court Buildings, High Court of A.P. (OUT)

8 Two CD copies.